

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

October 18, 1995

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. 1324c Proceeding
)	OCAHO Case No. 95C00070
NICOLAS TINOCO-MEDINA,)	
Respondent.)	
_____)	

ORDER GRANTING MOTION TO AMEND COMPLAINT

On September 6, 1995, complainant filed an unopposed pleading captioned Motion to Amend Complaint, in which it requested that the jurisdictional section of its Complaint be amended in the following manner:

"In paragraph 2 of the 'jurisdiction' section of the Complaint, the words 'by certified mail' should be stricken, and replaced with the words 'by personal service.'"

The pertinent procedural rule expressly governing amendments and supplemental pleadings provides that:

"If and whenever a determination of a controversy on the merits will be facilitated thereby, the Administrative Law Judge may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to complaints . . . such amendments may be made as necessary to make the pleading conform to the evidence."

28 C.F.R. § 68.9(e).

Respondent will not be prejudiced by complainant's being permitted to amend the Complaint in that manner since the requested amendment will serve "to make the pleading conform to the evidence."

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Accordingly, subparagraph two (2) of the Jurisdictional section of the Complaint Regarding Civil Document Fraud is hereby amended to read:

"2. A Notice of Intent to Fine was served by personal service on the Respondent on May 11, 1994. Exhibit A. Respondent has timely requested a hearing. Exhibit B."

All remaining wording in the April 17, 1995 Complaint will remain unchanged.

JOSEPH E. MCGUIRE
Administrative Law Judge